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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,625	11/24/2003	Alan L. Browne	GP-302436	4261

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EXAMINER
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ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/720,625

Applicant(s)

BROWNE ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species A- Figures 1-4 and Species B- Figures 5 and 6.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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2. During a telephone conversation with Kathryn Marra on June 22, 2004 a provisional election was made with traverse to prosecute the invention of Species A, claims 1-10.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### *Claim Objections*

4. Claim 10 is objected to because of the following informalities: in line 6, the first "and" should be deleted (because "and" is also found on the previous line). Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1, 3, 7, 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Muselli et al. (US Patent 5,213,383).

Regarding claim 1, Muselli et al. discloses an extendable bumper system for a vehicle, the extendable bumper system comprising: a bumper structure (5); a laterally extending bumper segment (6) slideably located within the bumper structure (5); and an actuator (9- although Muselli et al. do not disclose that the side telescoping members (6,7) are operable by an actuator, it would have been inherent to operate the side telescoping members in the same manner as the forward telescoping members (4)) in operable communication between the bumper structure (5) and the laterally extending bumper segment (6).

Regarding claim 3, Muselli et al. disclose the extendable bumper system of claim 1, wherein the actuator is a hydraulic actuator (9).

Regarding claim 7, Muselli et al. disclose the extendable bumper system of claim 1 further comprising: a locking mechanism (the hydraulic pressure) configured to lock the laterally extending bumper segment (6).

Regarding claim 8, Muselli et al. disclose the extendable bumper system of claim 3, wherein the locking mechanism (hydraulic pressure) is further configured to lock the laterally extending bumper segment (6) in an extended position prior to and during an event (the collision with the bumper segment causes the sensor to be activated by rotating the bumper segment not collapsing it).

Regarding claim 10, Muselli et al. disclose the extendable bumper system of claim 1 further comprising: at least one longitudinal bumper rail (4) located on the vehicle; at least one longitudinally extending bumper segment (4, Fig. 2) in slideably operable communication with

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said longitudinal bumper rail (4) and in operable communication with the bumper structure (5); and an actuator (9) in operable communication with the vehicle and in operable communication with the longitudinally extending bumper segment (4) and configured to longitudinally extend the bumper structure (5).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 2, 4, 5, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musselli et al. in view of Wathen (US Patent 3,848,914).

Regarding claims 2, 4 and 5, Musselli et al. do not disclose that the actuator is a motor actuator, a pyrotechnic actuator or a combination of a motor, hydraulic and pyrotechnic actuator. Wathen discloses an extendable bumper for a motor vehicle in which the actuator could includes

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a motor (Fig. 6), could include a pyrotechnic actuator (Figs. 4 and 8) and could be a combination of a motor actuator and a hydraulic actuator (Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to use any type of actuator to activate the extendable bumper as it would merely involve the alternate utilization of an equivalent actuating means to achieve the same exact function of extending the bumper.

Regarding claims 6 and 9, Wathen further discloses a sensor to extend the bumper over a threshold speed (column 2, line 40) or upon impending impact (column 2, lines 30-31). It would have been obvious to one of ordinary skill in the art at the time of the invention to use a sensor to determine the vehicle status to actuate the extendable bumper of Musselli et al. The motivation would have been to allow the bumper to be extended when the vehicle is moving but to allow it to automatically retract when the vehicle comes to a stop (which would allow unloading of the Musselli et al. vehicle).

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other extendable bumper systems.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patricia L Engle  
Examiner  
Art Unit 3612

ple  
June 22, 2004